



# United States Department of the Interior

## BUREAU OF LAND MANAGEMENT

Surprise Field Office  
P. O. Box 460  
Cedarville, CA 96104  
[www.ca.blm.gov/surprise](http://www.ca.blm.gov/surprise)



In Reply Refer To:  
4160 (CA-370) P

October 1, 2008

Certified Mail #  
(7160 3901 9846 0556 1719)

Evelyn Moore  
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XXXXXXXXXX XX XXXXX

### **NOTICE OF FIELD MANAGER'S PROPOSED DECISION GRAZING PERMIT ISSUANCE FOR THE UPPER LAKE ALLOTMENT**

Dear Evelyn:

The Bureau of Land Management (BLM) is proposing to re-issue a grazing permit on the Upper Lake Allotment. The current permit was issued under the Appropriations Act, therefore requires renewal prior to 2009. In 1983 the Upper Lake Allotment was categorized as "C" (custodial). Allotments categorized as "C" are non-intensively managed by the BLM.

The Upper Lake Allotment is located at T45N, R16E in northeast California, as shown on attached map. The permittee currently holds active preference on the Upper Lake Allotment, for 168 AUMs annually, from May 1 to September 30. The Upper Lake Allotment consists of 759 acres of public land and 295 acres of private land, for a total of 1,054 acres.

### **BACKGROUND**

Livestock grazing on the Upper Lake Allotment has been evaluated in relation to meeting the Standards and Guidelines for Rangeland Health for Northeastern California and Northwestern Nevada. This evaluation determined that the standards for rangeland health applicable to the Upper Lake Allotment are being met, and that proposed livestock grazing use would be in conformance with the guidelines for rangeland health. Based on those determinations, the Surprise Field Office is not proposing changes to the existing mandatory terms and conditions for livestock grazing on the Upper Lake Allotment.

Livestock grazing on the Upper Lake Allotment is subject to the Surprise Resource Management Plan (RMP) and adopted by the Record of Decision, April 2008, and the Northeastern California and Northwestern Nevada, Standards for Rangeland Health and Guidelines for Livestock Grazing Management, July 2000. The Upper Lake Allotment is in an area identified for livestock grazing in the RMP and therefore the Proposed Decision is consistent with the land use plan decisions and resource management goals and objectives.

The public was informed of the proposal for the grazing permit renewal during Scoping in September, 2008. The Scoping letter was sent to 14 interested publics of record, state agencies and permittees. No issues or concerns were raised during Scoping for the Upper Lake Allotment. During July 2008 the Rangeland Health Determination was completed. Compliance with the National Environmental Policy Act (NEPA) was completed by Categorical Exclusion # CA-370-08-15.

### **FIELD MANAGER'S PROPOSED DECISION**

It is my proposed decision to implement the Proposed Action, the issuance of the grazing permit for up to 10 years on the Upper Lake Allotment. The following table contains livestock permitted use (mandatory terms and conditions) in accordance with 43 CFR 4130.3-1:

#### **Upper Lake Allotment Terms and Conditions**

##### **Permitted Use Summary**

Allotment	Active AUMs	Suspended AUMs	Total Permitted Use
Upper Lake	168	0	168

##### **Existing Grazing Permit Schedule**

Allotment	Case File Number	Livestock number	Kind	Season	% Public Land	Public AUMs
Upper Lake	0402626	50	Cattle	5/01 – 7/30	100%	150
	0402626	9	Cattle	8/01 – 9/30	100%	18

The grazing permit contains terms and conditions consistent with meeting Surprise RMP objectives and land health standards. Monitoring would be consistent with the Record of Decision for the Rangeland Health Standards and Guidelines for Northeastern California and Northwestern Nevada. Allotment Specific: The following Terms and Conditions are issued in accordance with 43 CFR 4130.3-1:

The following Terms and Conditions are included on the Upper Lake Allotment permit.

1. Grazing use offered or authorized by BLM is subject to all provisions of the grazing regulations (43 CFR Parts 4100) and other applicable law and regulation. Grazing use will be in accordance with the Northeastern California and Northwestern Nevada, Standards for Rangeland Health and Guidelines for Livestock Grazing Management Final

EIS approved by the Secretary of the Interior on July 13, 2000. Rangeland Health Standards and Guidelines for California and Northwestern Nevada Final EIS approved by the Secretary of the Interior on July 13, 2000. Grazing use authorization may be modified in accordance with regulation to attain progress towards achieving rangeland health standards (subpart 4180.1 and 4180.2 Fundamentals of Rangeland Health and Standards and Guidelines for Grazing Administration).

2. Salt and/or mineral supplements will be placed no closer than ¼ mile from any public water source, aspen stand, or meadow.
3. Grazing flexibility can be requested by the livestock operators to run increased numbers for a shorter season. Any changes in grazing use cannot exceed Active AUMs, and must be approved in advance by a BLM authorized officer.
4. All range improvements must be maintained to standards prior to livestock turnout. All assigned fence maintenance must be completed annually, even if your permit is not activated. Failure to complete assigned fence maintenance may result in suspension of your grazing authorization.

## **RATIONALE**

This proposed decision will authorize grazing on the Upper Lake Allotment in accordance with 43 CFR 4100, and to be consistent with the provisions of the Taylor Grazing Act, Public Rangelands Improvement Act, and Federal Land Policy and Management Act.

The Proposed Decision was developed after a review of resource issues and conditions found on the Upper Lake Allotment. Categorical Exclusion NEPA # CA-370-08-15 was prepared to review the proposed decision in consultation with the permittees, state agencies and interested publics. Terms and conditions are incorporated into permits to ensure consistency with rangeland health standards, while continuing to provide forage for livestock grazing. Annual flexibility in the basic operation is incorporated in the permit to address such things as weather and economic factors. Annual adjustments may also be necessary to meet utilization guidelines, indicators.

The Proposed Decision has also been determined to be in conformance with the Surprise Resource Management Plan and Record of Decision, April 2008, (RMP) as required by regulation (43 CFR 1610.5-3(a)). The Upper Lake Allotment is in an area identified for livestock grazing in the Surprise RMP.

The Surprise Field Office has reviewed the proposed action in this decision in relation to procedures for documenting compliance with NEPA, and determined that the actions in these decisions are categorically excluded (CX) from further documentation under NEPA in accordance with 516 DM 11.9, D (11). The specific CX language provides for the Issuance of Livestock grazing permits/leases where:

- (a) The new grazing permit/lease is consistent with the use specified on the previous permit/lease, such that*
  - 1. the same kind of livestock is grazed.*
  - 2. the active use previously authorized is not exceeded, and*
  - 3. grazing does not occur more than 14 days earlier or later than as specified on the previous permit/lease, and*
- (b) The grazing allotment(s) has been assessed and evaluated and the Responsible Official has documented in a determination that the allotment(s) is*
  - 1. meeting land health standards, or*
  - 2. not meeting land health standards due to factors that do not include existing livestock grazing.*

Actions that qualify as categorical exclusions do not have significant effects on the quality of the human environment; therefore, neither an environmental assessment (EA) nor an environmental impact statement (EIS) is required. These decisions are consistent with the use specified on the previous permits/leases, and evaluations of the grazing allotments determined the applicable land health standards are being met.

## **AUTHORITY**

The authority for this decision includes, but is not limited to:

Sec. 4100.0-8 Land use plans.

The authorized officer shall manage livestock grazing on public lands under the principle of multiple use and sustained yield, and in accordance with applicable land use plans. Land use plans shall establish allowable resource uses (either singly or in combination), related levels of production or use to be maintained, areas of use, and resource condition goals and objectives to be obtained. The plans also set forth program constraints and general management practices needed to achieve management objectives. Livestock grazing activities and management actions approved by the authorized officer shall be in conformance with the land use plan as defined at 43 CFR 1601.0-5(b).

Sec. 4130.2 Grazing Permits or Leases.

(a) Grazing permits or leases authorize use on the public lands and other lands under the administration of the Bureau of Land Management that are designated as available for livestock grazing through land use plans. Permits or leases shall specify the types and levels of use authorized, including grazing, and suspended use. These grazing permits or leases shall also specify terms and conditions pursuant to 4130.3, 4130.3-1, and 4130.3-2.

(d) The term of grazing permits or leases authorizing livestock grazing on the public lands and other lands under the administration of the Bureau of Land Management shall be 10 years unless—

(3) The term of the base property lease is less than 10 years, in which case the term of the Federal permit or lease shall coincide with the term of the base property lease;

#### Sec. 4130.3 Terms and Conditions.

Livestock grazing permits and leases shall contain terms and conditions determined by the authorized officer to be appropriate to achieve management and resource condition objectives for the public lands and other lands administered by the Bureau of Land Management, and to ensure conformance with the provisions of subpart 4180 of this part.

#### Sec. 4130.3-1 Mandatory Terms and Conditions.

(a) The authorized officer shall specify the kind and number of livestock, the period(s) of use, the allotment(s) to be used, and the amount of use, in animal unit months, for every grazing permit or lease. The authorized livestock grazing use shall not exceed the livestock carrying capacity of the allotment.

(b) All permits and leases shall be made subject to cancellation, suspension, or modification for any violation of these regulations or of any term or condition of the permit or lease.

(c) Permits and leases shall incorporate terms and conditions that ensure conformance with subpart 4180 of this part.

#### Sec. 4130.3-2 Other Terms and Conditions.

The authorized officer may specify in grazing permits or leases other terms and conditions which will assist in achieving management objectives, provide for proper range management or assist in the orderly administration of the public rangelands. These may include but are not limited to:

(c) Authorization to use, and directions for placement of supplemental feed, including salt, for improved livestock and rangeland management on the public lands;

(d) A requirement that permittees or lessees operating under a grazing permit or lease submit within 15 days after completing their annual grazing use, or as otherwise specified in the permit or lease, the actual use made;

#### Sec. 4180.1 Fundamentals of Rangeland Health.

Standards and guidelines developed or revised by a Bureau of Land Management State Director under §4180.2(b) must be consistent with the following fundamentals of rangeland health:

(a) Watersheds are in, or are making significant progress toward, properly functioning physical condition, including their upland, riparian-wetland, and aquatic components; soil and plant conditions support infiltration, soil moisture storage, and the release of water that are in balance

with climate and landform and maintain or improve water quality, water quantity, and timing and duration of flow.

(b) Ecological processes, including the hydrologic cycle, nutrient cycle, and energy flow, are maintained, or there is significant progress toward their attainment, in order to support healthy biotic populations and communities.

(c) Water quality complies with State water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives such as meeting wildlife needs.

(d) Habitats are, or are making significant progress toward being, restored or maintained for Federal threatened and endangered species, Federal proposed or candidate threatened and endangered species, and other special status species.

### **RIGHT OF PROTEST AND/OR APPEAL**

Any applicant, permittee, lessee or other affected interest may protest a proposed decision under Sec. 43 CFR 4160.1, in person or in writing to Shane DeForest, Surprise Field Manager, PO Box 460, 602 Cressler Street, Cedarville, California 96104 within 15 days after receipt of such decision. The protest, if filed, should clearly and concisely state the reason(s) as to why the proposed decision is in error.

In the absence of a protest, the proposed decision will become the final decision of the authorized officer without further notice unless otherwise provided in the proposed decision. In the event a protest is received, the authorized officer will consider the protest points and issue a final decision.

Any applicant, permittee, lessee or other person whose interest is adversely affected by the final decision may file an appeal in accordance with 43 CFR 4.470 and 43 CFR 4160.1-4. The appeal may be accompanied by a petition for stay of the decision in accordance with 43 CFR 4.21, pending final determination on appeal. The appeal and petition for stay must be filed in the office of the authorized officer, as noted above, within 30 days following receipt of the final decision, or within 30 days after the date the proposed decision becomes final.

The appeal shall state the reasons, clearly and concisely, why the appellant thinks the final decision is in error and otherwise comply with the provisions of 43 CFR 4.470 which is available from the BLM office for your use in a BLM office.

In accordance with 43 CFR 4.21(b) (1), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied.
- (2) The likelihood of the appellant's success on the merits.
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

Sincerely,



Shane DeForest,  
Surprise Field Manager

cc: Todd Degarmo; Chair, Ft. Bidwell Tribal Council (7160 3901 9846 0556 1726)  
Marisha Noneo; Chair, Cedarville Rancheria (7160 3901 9846 0556 1733)  
Jim Gifford; USDA, NRCS (7160 3901 9846 0556 1740)  
Sean Curtis, Modoc Land Use Committee (7160 3901 9846 0556 1757)  
Center for Biological Diversity, Grazing Reform Program (7160 3901 9846 0556 2020)  
Michael Connor; Western Watersheds Project (7160 3901 9846 0556 2037)  
California Department of Fish and Game; Bob Williams (7160 3901 9846 0556 2044)  
California Department of Fish and Game; Richard Shinn (7160 3901 9846 0556 2051)  
Dennis Smith, Modoc Cattlemen's Association (7160 3901 9846 0556 2068)  
Nancy Huffman; Chair, Northeastern California RAC (First Class Mail)  
Modoc-Washoe Experimental Stewardship Committee (First Class Mail)  
Norvie Enns; CA & NV Rockhounds (First Class Mail)

Upper Lake Allotment

